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No. 82-1150

IN THE Supreme Court of the United States

OCTOBER TERM, 1983

HOWARD ELLIS, et al.,

Petitioners,

v.

BROTHERHOOD OF RAILWAY, AIRLINE AND STEAMSHIP CLERKS, et al.,

Respondents.

ALLEN L. FAILS, et al.,

Petitioners,

v.

BROTHERHOOD OF RAILWAY, AIRLINE AND STEAMSHIP CLERKS, et al.,

Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

JOINT APPENDIX — EXHIBITS

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PETITION FOR CERTIORARI FILED JANUARY 7, 1983.
CERTIORARI GRANTED APRIL 18, 1983.

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1977 GRAND LODGE EXPENDITURES: I OFFICERS

Officer	Function	Cost	Percent ¶22	¶ 22 Cost	Rebated	Collective barg. cost
1 International President	Collective bargaining & administrative (incidental ¶ 22 activities)	128,360.44	10%	12,836.04	3,160.27	112,364.
2 International Vice-President Coleman	Collective bargaining (incidental ¶ 22 activities)	83,391.38	10%	8,339.14	624.01	74,428.
3 International Vice-President Devlin	Organizing	79,492.83	All but rebatables	79,099.02	393.81	0.
4 International Vice-President Fitzgibbon	Collective bargaining; some organizing; incidental other ¶ 22 activities	108,815.86	30%	32,644.76	1,209.20	74,961.
5 International Vice-President Granlund	Collective bargaining & administration (incidental ¶ 22 activities)	82,097.71	10%	8,209.77	609.85	73,278.
6 International Vice-President Kilroy	Administration & collective bargaining (incidental ¶ 22 activities)	67,148.98	10%	6,714.90	1,158.98	59,275.

7 International Vice-President Kroll	NA	NA	NA	NA	NA	NA
8 International Vice-President Lynch	Collective bargaining (incidental ¶ 22 activities)	78,685.38	10%	7,868.54	1,368.41	69,448.
9 International Vice-President McGregor	Collective bargaining Canada (incidental ¶ 22 activities)	74,622.05	10%	7,462.21	0.00	67,159.
10 International Vice-President Neal	Collective bargaining (incidental ¶ 22 activities)	73,592.02	10%	7,359.20	510.66	65,722.
11 International Vice-President Otero	International affairs; political & labor; collective bargaining; incidental other ¶ 22 activities	84,739.82	All but rebatables	76,056.45	8,683.37	0.
12 International Vice-President Toppen	Collective bargaining (incidental ¶ 22 activities)	76,224.89	10%	7,622.49	771.54	67,830.
13 Ass't International Vice-President Bishop	Collective bargaining	58,417.64	10%	5,841.76	1,800.72	50,775.

14 Ass't International Vice-President Norton	Collective bargaining	58,259.25	10%	5,825.93	2,712.85	49,720.
15 Ass't International Vice-President Smith	Collective bargaining	58,916.17	10%	5,891.62	0.00	53,024.
16 Board of Trustees	Financial review & control	63,966.67	10%	6,396.67	1,815.13	55,754.
	TOTAL	1,176,731.09		278,168.50	24,818.80	873,743.

Amount chargeable as collective bargaining costs for Western Airlines membership, which constituted 1.9% of the total membership in 1977: 16,601.

1977 GRAND LODGE EXPENDITURES: II
COLLECTIVE BARGAINING AND COLLECTIVE BARGAINING SUPPORT

Category	Function	Cost	Percent ¶ 22	¶ 22 Cost	Rebated	Collective barg. cost
17 Industry Relations	Collective bargaining	514,747.48	0	0.00	1,804.22	512,943.
18 Social Insurance	Collective bargaining	50,058.30	0	0.00	0.00	50,058.
19 International Affairs	¶ 22 activities & collective bargaining support	8,223.10	All but reba-tables	7,490.77	732.33	0.
20 Research & Education	Collective bargaining support (incidental ¶ 22 activities)	91,784.33	20%	18,356.87	718.22	72,709.
21 Railroad Patrolmen	Collective bargaining	1,611.12	0	0.00	0.00	1,611.
22 REA O'Hare	Collective bargaining	73.84	0	0.00	0.00	73.
23 National Negotiating Committee	Collective bargaining	718.25	0	0.00	0.00	718.
24 Canadian Negotiating Committee	Collective bargaining	13,134.00	0	0.00	0.00	13,134.
25 Harvard trade union courses	Collective bargaining support	0.00	0.0	0.00	0.00	0.

26 Manpower Training	Collective bargaining support	81,767.60 Gov't reim. 55,990.50 net 25,777.10	0	0.00	0.00	25,777.10
27 International President's Bulletin	NA	NA	NA	NA	NA	NA
28 Professional services	Collective bargaining support	168,193.99	0	0.00	12,456.79	155,737.20
29 Membership protective	Collective bargaining	0.00	0	0.00	0.00	0.00
	TOTAL	930,312.01		25,847.64	15,711.56	832,762.31

Amount chargeable as collective bargaining costs for Western Airlines membership, which constituted 1.9% of total membership in 1977: 15,822.48

1977 GRAND LODGE EXPENDITURES: III
ADMINISTRATION, HOUSEKEEPING & OVERHEAD

Category	Function	Cost	Percent ¶ 22	¶ 22 Cost	Rebated	Collective barg. cost
30 Administration	Administrative & necessary housekeeping functions (incidental ¶ 22 activities)	360,918.17	10%	36,091.82	8,043.46	316,782.
31 Washington office	Administration-Washington	34,132.54	10%	3,413.25	0.00	30,719.
32 Philadelphia office	NA	NA	NA	NA	NA	NA
33 Montreal office	Administrative & necessary housekeeping functions	92,678.86	0	0.00	0.00	92,678.86
34 Canadian Executive Council	Administration	0.00	0	0.00	0.00	0.00
35 International Secretary-Treasurer	Administration of necessary housekeeping functions (incidental ¶ 22 activities)	123,007.58	10%	12,300.76	1,104.57	109,602.25
36 Data Processing	Necessary housekeeping functions (incidental ¶ 22 support)	205,397.28	17.5%	35,944.52	1,411.46	168,041.30

37 Comptroller	Necessary housekeeping functions (incidental ¶ 22 support)	135,051.05	*	8,165.51	3,701.07	123,184.47
38 Reproduction & Switchboard	Necessary housekeeping functions (incidental ¶ 22 support)	78,990.85	10%	7,899.09	179.24	70,912
39 O'Hare Building	Necessary housekeeping functions (incidental ¶ 22 support)	95,368.60	9.5%	18,596.88	85.77	76,685
40 Administration IST	Necessary housekeeping functions	47,144.28	10%	4,714.43	44.42	42,385
41 Audit & Bonding	Necessary housekeeping functions	107,416.25	0	0.00	0.00	107,416
42 Auditors	Necessary housekeeping functions	302,827.72	0	0.00	280.38	302,547
43 Per Capita Tax	Necessary housekeeping functions	342,161.66	0	0.00	245.35	341,916
44 Cashier	Necessary housekeeping functions	112,562.10	10%	11,256.21	0.00	101,305
45 Annuities	Overhead	48,831.44	0	0.00	0.00	48,831
46 Transfer Allowance	Overhead	4,495.35	0	0.00	0.00	4,495

47 Separation Allowance	Overhead	56,389.20	0	0.00	0.00	56,389.
48 Pension Prior Service Funding	Overhead	118,589.26	0	0.00	0.00	118,589.
49 Auto expenses	Overhead primarily for collective bargaining (incidental ¶ 22 support)	65,093.25 per use re im 7,099.98 net 57,993.27	22.5%	13,048.48	0.00	44,944.
50 Building expenses	Overhead both for collective bargaining & ¶ 22 activities	854,680.34 less rent (423,068.81) Net 431,611.53	19.5	84,164.25	0.00	347,447.
51 Depreciation	Overhead both for collective bargaining & ¶ 22 activities	82,509.10	*	17,531.88	0.00	64,977.
52 Insurance	Overhead both for collective bargaining & ¶ 22 activities	56,796.00	20%	11,359.20	0.00	45,436.
53 Office expenses	Overhead both for collective bargaining & ¶ 22 activities	603,291.02	*	84,735.33	2,558.79	515,996.

54 Membership services	Necessary housekeeping functions	9,734.61	0	0.00	3,525.00	6,209.
55 Fidelity Fund	Necessary housekeeping functions	17,453.00	0	0.00	0.00	17,453.
	TOTAL	3,955,519.51		349,221.61	21,179.51	3,154,949.

Amount chargeable as collective bargaining costs for Western Airlines membership, which constituted 1.9% of total membership in 1977: 59,944.0

1977 GRAND LODGE EXPENDITURES: IV
PRIMARILY ¶ 22 AND REBATABLE

Category	Function	Cost	Percent ¶ 22	¶ 22 Cost	Rebated	Collective barg. cost
56 General Fund other expenses	Includes various items rebatable under ¶¶ 1,4 of October 1975 rebate plan	261,265.25 Can. ser. chg. (211,606.93) net 49,658.32	0	0.00	36,100.73	13,557.59
57 Legal	Collective bargaining support but includes litigation not on WAL contract ¶ 22 (10)	670,481.64	*	401,581.12	70,010.61	198,889.91
58 State Legislative Representatives	Rebated under ¶¶ 1, 2 of October 1975 rebate plan	31,505.75 residuals RSLF 31,505.75 + net 0.00	0	0.00	0.00	0.00
59 State Legislative	Rebatable under ¶¶ 1,2 of October 1975 rebate plan	207,344.33 residuals RSLF 207,344.33 + net 0.00	0	0.00	0.00	0.00
60 Labor affiliations	Rebatable under ¶ 3 of October 1975 rebate plan	327,866.34	0	0.00	327,866.34	0.00
61 Convention	¶ 22 (8)	17,259.11	All	17,259.11	0.00	0.00

62 Death Benefit	¶ 22 (2)	1,344,537.97	All but rebatables	1,343,951.65	586.32	0.00
63 Organizing	¶ 22 (3,4)	629,872.27	All but rebatables	624,224.47	5,647.80	0.00
64 Official Publication	¶ 22 (5)	376,712.35	All but rebatables	365,575.91	11,136.44	0.00
65 Disaster Relief	¶ 22 (6)	26,450.00	All	26,450.00	0.00	0.00
66 Legislative	Rebatable under ¶ 2 of October 1975 rebate plan	240,308.68	0	0.00	240,308.68	0.00
	TOTAL	4,133,603.69		2,779,042.26	691,656.92	212,447.50

Amount chargeable as collective bargaining costs for Western Airlines membership, which constituted 1.9% of total membership in 1977: 4,036

1977 GRAND LODGE EXPENDITURES: V
TOTAL EXPENDITURES

¶ 22 Costs		$3,432,280.01	37.1%
Rebated		753,366.79	8.1%
Collective Bargaining Costs		5,073,903.20	54.8%
TOTAL EXPENDITURES			9,259,550.00
Reimbursement and Interfund Transfer Items		936,616.30	
Total Disbursements		10,196,166.30	
Amount Chargeable as Collective Bargaining Costs for Western Airlines Membership, Which Constituted 1.8% of Total Membership in 1977			96,404.16

REPAYMENTS DUE PLAINTIFFS UNDER PARAGRAPH 22 FOR GRAND LODGE NON-COLLECTIVE BARGAINING EXPENDITURES IN 1977

Method 1 -- Aggregation of Grand Lodge Paragraph 22 Expenditures, Prorated to Each Dues Payer

a.	Total Grand Lodge Expenditures	$9,259,550.00
b.	Total Grand Lodge Expenditures for ¶ 22 Activity	3,432,280.01
c.	Percent of Total Expenditures Representing ¶ 22 Expenditures, Refundable Under ¶ 22 (b. divided by a.)	37.1%
d.	Total Dues Paid by Each Plaintiff to Grand Lodge in 1977	67.80
e.	Repayment Due to Each Plaintiff Under ¶ 22 for 1977 Grand Lodge ¶ 22 Expenditures (percent c. applied to d.)	25.15

Method 2 -- Aggregation of Grand Lodge Collective Bargaining Expenditures, Prorated to Each Dues Payer

a.	Total Grand Lodge Expenditures	$9,259,550.00
b.	Total Grand Lodge Expenditures for Collective Bargaining Activity	5,073,903.20
c.	Percent of Total Expenditures Representing Collective Bargaining Activity (b. divided by a.)	54.8%
d.	Total Dues Paid by Each Plaintiff to Grand Lodge in 1977	67.80
e.	Portion of Total Dues Paid Which is Non-Returnable (percent c. applied to d.)	37.15
f.	Portion Already Returned Under Rebate Plan (7.8%)	5.29
g.	Remaining Portion Due for Repayment to Each Plaintiff for 1977 Grand Lodge Non-Collective Bargaining Expenditures (e. and f. subtracted from d.)	25.36

Method 3 -- Aggregation of Grand Lodge Western Airlines Collective Bargaining Expenditures, Prorated to Each Dues Payer -- With Correction for Dues Differential

a.	Total 1977 Grand Lodge Collective Bargaining Expenditures for Western Airlines Members	96,404.16
b.	Number of 1977 Western Airlines Members	3,886
c.	Total 1977 Grand Lodge Collective Bargaining Expenditures for Each Western Airlines Member (b. divided by c.)	24.81
d.	Collective Bargaining Expenditures for Each Western Airlines Member Adjusted to Account for Dues Differential (c. times 1.261)*	31.29
e.	Total Dues Paid by Each Plaintiff to Grand Lodge in 1977	67.80

f.	Dues Paid by Each Plaintiff for Non-Collective Bargaining Expenditures (e. minus d.)	36.51
g.	Portion Already Returned Under Rebate Plan (7.8%)	5.29
h.	Remaining Portion Due for Repayment to Each Plaintiff for 1976 Grand Lodge Non-Collective Bargaining Expenditures (f. minus g.)	31.22

* Provisional Adjustment Factor: Western Airline members' annual dues to Grand Lodge in proportion to reduced-rate annual dues of others to Grand Lodge 67.80 ÷ 53.78 = 1.261. Defendants may be able to provide from Grand Lodge data a more refined adjustment ratio reflecting all Grand Lodge dues payment variations.

Method 4 -- Aggregation of Grand Lodge Western Airlines Collective Bargaining Expenditures, Prorated to Each Dues Payer -- Without Correction for Dues Differential

a.	Total 1977 Grand Lodge Collective Bargaining Expenditures for Western Airlines Members	$96,404.16
b.	Number of 1977 Western Airlines Members	3,886
c.	Total 1977 Grand Lodge Collective Bargaining Expenditures for Each Western Airlines Member (a. divided by b.)	24.81
d.	Total Dues Paid by Each Plaintiff to Grand Lodge in 1977	67.80
e.	Dues Paid by Each Plaintiff for Non-Collective Bargaining Expenditures (d. minus c.)	42.99
f.	Portion Already Returned Under Rebate Plan (7.8%)	5.29
g.	Remaining Portion Due for Repayment to Each Plaintiff for 1977 Grand Lodge Non-Collective Bargaining Expenditures (e. minus f.)	37.70

DEPRECIATION: ITEM 51 1977

Subcategory	Total Cost	¶ 22 Allocation	¶ 22 Cost
Washington office	$ 3,298.88	66.7%	$ 2,200.35
O'Hare	77,131.52	19.5%	15,040.65
Montreal	1,142.36	10%	114.24
Philadelphia	728.40	10%	72.84
Omaha	57.18	10%	5.72
Laurel	58.53	10%	5.85
New Jersey	92.23	100%	92.23
	$82,509.10		$17,531.88

OFFICE EXPENSES: ITEM 53 1977

Subcategory	Total Cost	¶ 22 Allocation	¶ 22 Cost
Rent office equipment			
Rosemont--IBM	$ 48,036.99	17.5%	$ 8,406.47
Rosemont--other	58,428.44	10%	4,842.84
Washington	1,661.64	50%	830.82
Montreal	2,463.04	10%	246.30
Repair office equipment			
Rosemont	5,488.08	10%	548.81
Washington	187.43	50%	93.72
Postage			
Rosemont	45,033.15	10%	4,503.32
Washington	1,000.00	50%	500.00
Montreal	5,893.59	10%	589.36
Telephone			
Rosemont	88,496.27	10%	8,849.63
Washington	5,371.13	50%	2,685.57
Montreal	7,719.83	10%	771.98
Express			
Rosemont	5,461.62	10%	546.16
Washington	18.57	50%	9.28
Printing & office supplies			
Rosemont--IBM	14,346.11	17.5%	2,510.56
Rosemont--other	83,793.53	10%	8,379.85

Washington	$ 1,284.27	50%	642.14
Montreal	5,658.06	10%	565.81
Dues & subscriptions			
Rosemont	2,507.83	10%	250.78
Industrial Relations	2,762.76	0	0.00
Research & Education	4,745.61	20%	949.12
Washington	88.00	50%	44.00
Montreal	2,206.95	10%	220.69
Promotional aids			
Rosemont	10,590.08	10%	1,059.00
Montreal	1,678.41	10%	167.94
Meetings	35,435.74	10%	3,543.57
Rent			
Rosemont	80,657.94	19.5%	15,728.30
Washington	18,846.60	50%	9,423.30
Montreal	28,887.48	10%	2,888.75
Miscellaneous office expenses			
Rosemont	2,896.10	10%	289.61
Washington	538.38	50%	269.19
Montreal	9,174.22	10%	917.42
Third Division	613.98	0	0.00
Cupertino	2,195.40	10%	219.54
Philadelphia	51.71	10%	5.17
REA	4,339.51	0	0.00
Omaha	1,271.69	10%	127.17
Laurel	786.34	10%	78.63
Roanoke	619.65	10%	61.97

Florence	NA	NA	NA
Manpower	$ 800.00	0	0.00
Interest expense IBM	11,248.89	17.5%	1,968.56
	$603,291.02		$84,735.33

OTHER EXPENSES: ITEM 56 1977

Subcategory	Total Cost	¶ 22 Cost	Rebated	Collective bargaining
Donations	$ 23,796.39	$ 0.00	$23,796.39	$ 0.00
Refund dues	3,594.16	0.00	0.00	3,594.16
Disaster relief	7,303.45	(see Item 65)	0.00	7,303.45
Banquets, luncheons	9,015.08	0.00	9,015.08	0.00
Speakers honorariums	NA	NA	NA	NA
Miscellaneous	2,659.98	0.00	0.00	2,659.98
Foreign travel	3,289.26	0.00	3,289.26	0.00
Interfund service charge (Canada)	211,606.93	NA	NA	NA
	$261,265.25	0.00	36,100.73	13,557.59

LEGAL: ITEM 57 1977

Subcategory	Total Cost	¶ 22 Cost	Rebated	Collective Bargaining
Salaries	$144,300.09]			
Fringe benefits	40,344.17]	$ 74,345.24	$ 478.50	$134,835.71
Travel expenses	25,015.19]			
Office expenses	7,991.88	0.00	0.00	7,991.88
Professional fees	393,309.34	313,435.88	55,732.11	24,141.35
Consultants	4,653.84	0.00	0.00	4,653.84
Miscellaneous legal expenses	974.34	0.00	0.00	974.34
Labor affiliations	22,440.00]	13,800.00	13,800.00	5,160.00-
Arbitration expenses	18,072.79	0.00	0.00	18,072.79
Strike benefits	13,380.00	0.00	0.00	13,380.00
Third Division awards	NA	NA	NA	NA
	$670,481.64	$401,581.12	$70,010.61	$198,889.91

DEFENDANTS' TRIAL EXHIBIT CA

MEMORANDUM

To: BRAC Executive Council — October 5, 1975

From: Joseph L. Rauh, Jr.
John Silard
Harriett R. Taylor

Subject: Recommendations Concerning Dues Rebates For Expenditures for Political Causes

By letter dated September 10, 1975, President Dennis and General Counsel Hirsh requested us to become Chief Counsel for BRAC in the *Ellis* and *Fails* cases, and to review BRAC's actions in the area of dues rebates and make recommendations thereon. We received that request on September 15 and accepted the assignment the following day by oral communication to General Counsel Hirsh. We have worked diligently since that time to prepare these recommendations for the Council at its San Francisco meeting in early October.

The guiding criteria for the grant of dues rebates to union dissenters are found in the Supreme Court's *Street* decision (367 U.S. 740). There the Court heard and rejected frontal assaults on compulsory union dues based on claims that unions spend money for political causes which some members oppose; the Court categorically rejected the idea that an employe could get out of the payment of dues because some of the dues went for political causes he opposed. But the Court also held that, to "attain the appropriate reconciliation between majority and dissenting interests in the area of political expression" (367 U.S. at 773), under the Railway Labor Act unions may not use an objecting employe's dues "to support political causes which he opposes" (367 U.S. 769).[1] The Court in *Street* (367 U.S. at 775) and again in *Allen* (373 U.S. 113) approved the remedy of restitution to the dissenting employe of that portion of dues expended for political causes. In *Allen* the Court went further, urging unions to adopt their own rebate systems which would avoid the necessity of costly and troublesome litigation, by providing the employe with an intra-union rebate remedy to vindicate his rights.

An increasing number of national unions, including BRAC, have adopted such rebate plans; we believe it is good sense for unions to

[1]The "political causes" terminology was deliberate and significant, for it appears over and over again in the *Street* opinion. See 367 U.S. at 750, 767, 768, 769, 770, 771, 774, 775.

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follow that course with a generous rebate system, both for the protection of the unquestionable rights of their political-expenditure dissenters and in their own best interests to avoid unnecessary litigation. In establishing such union rebate systems, three principal problems immediately arise: 1) defining the kinds of union activities which fall within the "political causes" area, 2) making sure that, once so defined, the union's accounting system for the establishment of a dues-rebate rate includes every level and kind of union expenditure and disbursement, and 3) insuring fair internal union procedure and remedy for the employe who believes the rebate offered him is inadequate.

(1) As concerns the definition of "political causes" the Supreme Court's decision leaves considerable ambiguity. For instance, while it seems clear from *Street* that partisan election activities are included (see 367 U.S. at 773), it is not certain that would also include political messages and activities directed at the union's own membership, especially in the light of Congress' recent validation of such activities under 18 U.S.C. 610. See also *United States v. CIO*, 335 U.S. 106. Moreover, when it comes to legislative lobbying costs rather than elections activities, there is also considerable doubt whether such expenditures are within "political causes." When undertaken in direct aid of the basic organizational mission which originally "gave rise to the need for group action," even Justice Douglas (concurring at p. 777) suggests that rebates may not be required. The Supreme Court's plurality decision in *Lathrop v. Donahue*, 367 U.S. 820, 846-47, announced concurrently with *Street*, suggests that in the absence of a particular objection by a dissenter to a particular legislative expenditure the Constitution requires no rebates and that at least some lobbying expenditures "may be properly apportioned" to compulsory dues.

Nevertheless, we deem it best to provide the broadest possible respect for personal choices in the area of politics and ideology, and to avoid unnecessary bookkeeping burdens which narrower differentiation would require. Accordingly, we recommend that the union rebate system encompass all expenditures in the area of elections, legislative lobbying, and dues or contributions to other organizations, including labor, charitable, and educational groups. While such a standard goes farther than the law appears to require, in operation it avoids undue accounting burdens which would arise under a narrower standard and also reduces the likelihood of unnecessary and burdensome litigation.

(2) A second important question concerns the union accounting system to be used. It is indispensable that such a system include all payments,

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whether made at the national, regional, or local level and whether by way of direct union contributions, expenditures, facilities, or compensated employe time. Initially such an audit task may seem onerous. But it is clear that to measure fairly the portion of the union's dues income expended for political causes there must be an audit system which includes every form of union disbursement.

(3) A third important question concerns the internal union procedures and remedies for the protection of the rights of dissenters. Here we point out that there is no substitute for a Public Review Board to which any dissenter can go if he believes that the amount of the rebate he is being offered does not fully represent the expenditures which the Supreme Court has indicated are rebatable. The UAW's successes in the *Reid* and *McNamara* cases against political objector complaints can be attributed in substantial part to its Public Review Board. A generous rebate system and careful accounting, together with an independent review system, will in the long run avoid harassing litigation.

Having in mind, then, the desirability of a broad definition of political expenditures, a comprehensive reporting and auditing system to determine what proportion of dues are so expended, and the advantages of an impartial internal remedy, we recommend the following:

1. As items to be included in BRAC's rebate plan:
   (i) All funds expended, directly or indirectly, on the election of candidates for public office, including contributions to any political party or political organization; staff time spent during working hours on behalf of any political party, political organization, or candidate for public office; expenditures on behalf of and facilities used for any political party, political organization or candidate for public office; and a prorated proportion of the cost of the Railway Clerk interchange and other union publications to cover space devoted to the above.
   (ii) All funds expended, directly or indirectly, on legislative lobbying, including time and expenses of full or part-time union staff, expenses of unsalaried persons reimbursed by the union, and the full 30¢ allocated to the State Legislative Committees.
   (iii) All dues to the AFL-CIO, CLC, and affiliated organizations of either.
   (iv) All contributions to other organizations, including charitable and educational groups.
   (v) All of the above should include Grand Lodge, System Board, Local Lodge, and State Legislative Committee expenditures.

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We have discussed the above with staff members of the Brotherhood, and while precise calculation is not yet possible it appears that these proposals would represent a rebate in the general vicinity of 5% of the dues paid by employes.

2. With the aid of your accountants, we recommend that you set up a reporting and accounting system which will accurately measure the amount of political expenditures (as defined in 1, above) year by year for purposes of rebate. The accounting for 1975 should permit rebates to be made early in 1976 for dissenters' 1975 dues payments.

3. Establish a Public Review Board to hear dissenters' claims for a higher rebate figure.

4. While the above proposals should yield a fair and workable political rebate system, meeting generously all the requirements laid down by the Supreme Court in *Street* and in *Allen*, there remains the question of calendar years before 1975, when employes who had objected in 1972 to political expenditures were not afforded rebates based upon an adequately comprehensive auditing system. Some of those employes are asking in the pending *Ellis* and *Fails* cases that their entire dues payments for prior years be refunded to them due to inadequate accounting. We believe that since it could not possibly be claimed that all of the dues were spent on political causes such a course is unnecessary and goes too far. Nevertheless, these employes, we believe, should be given the benefit of any doubt. Accordingly, when the 1975 rebate proportion is established based upon the audit data for this year, all those who objected in 1972 should be given rebates in a proportion not smaller for 1972, 1973 and 1974. Moreover, if the audit system shows a higher rebate due for calendar year 1976, because it is an election year when more union expenditures in the political area may be made, we would urge that the employes who earlier objected be given the further benefit of any possible doubt by providing them with the higher rebate percentage for the years 1972 through 1974.

RAILWAY CLERK

DEFENDANTS' TRIAL EXHIBIT CB

Communication

From BRAC's International President
To all Local Lodges, System Boards
and other Subordinate Units

Pursuant to its Constitution, the Grand Lodge and its various subordinate units have over a great many years undertaken direct and effective legislative lobbying and political activity for the protection of employes of railway and airline industries. Such action is vital because the working rights of every member are directly affected when Congress or the state legislatures or other federal or state bodies take action affecting wages, hours, unemployment compensation, pensions, railroad and airline routes, and other matters of direct interest to every employe. Without an effective political voice, workers represented by BRAC would not gain the benefits they have achieved and will achieve through the legislative process, and might often lose at the polls and in the legislature the benefits won for them by the Brotherhood at the bargaining table.

Nevertheless, there are a handful of employes represented by the Brotherhood—constituting less than one-tenth of one percent of the membership—who have protested the expenditure of their dues for legislative lobbying and political activity. While we believe these employes to be misguided in their view, nevertheless the Supreme Court of the United States has made it clear that no employe has to pay dues for union political action to which he objects. To meet the rights of these few dissenters, the Brotherhood established in 1974 a system to permit the rebate of the portion of dues representing political expenditures to those few employes who persist in their objections. To assure that this political rebate system met all legal requirements, I requested and received a detailed legal analysis and recommendation from Joseph L. Rauh, Jr., John Silard and Harriett Taylor, expert constitutional lawyers with wide experience in the union political expenditure field. On October 6, 1975 the Executive Council resolved to approve and implement the report and recommendations made by Rauh, Silard and Taylor. There follows the full text of their report and recommendations which were approved by the Executive Council on October 6 to assure a fair system of dues rebates within the Brotherhood. The Board of Trustees will determine a figure in January 1976 as the appropriate rebate for those who had protested for the year 1975 and the 1975 rebates will be paid immediately thereafter.

Questions have been raised concerning the right of employes represented by BRAC under union shop or union security contracts, to refrain from becoming members of the Brotherhood without prejudice to their job rights as long as they meet the same financial obligations that apply to members. Questions have also been raised as to the eligibility of such employes, who maintain their financial obligations without becoming members, to participate in various Brotherhood economic benefit programs such as death benefits, strike benefits, and disaster relief. To clarify these issues, the Constitution and Rules of the Brotherhood, consistent with governing federal law as interpreted by the courts, are hereby construed as follows:

1. Notwithstanding the fact that the Railway Labor Act and the National Labor Relations Act permit agreements requiring compulsory union "membership" by all employes represented by the union, the courts have ruled that no employe can be required actually to enroll as a union member as a condition for retaining his job rights, as long as he meets the financial obligation to pay initiation fees, dues, and assessments which apply to members of the union, and the Grand Lodge has consistently recognized this position. To avoid any misunderstanding, every local should by appropriate means advise employes that to meet Union "membership" obligations under the contract with the employer it is sufficient that the employe meet the same financial obligations which apply to regular Union members.
2. Agency fee payers—i.e., those who maintain their financial obligations without having to become regular members of BRAC—are equally eligible for all economic benefit programs available to regular members, including strike benefits, disaster relief, death benefits and the *Railway Clerk/interchange*. Agency fee payers are "members" entitled to equal benefits within the meaning of Article 2, Section 13 of the Protective Laws governing strike benefits; Article 31 of the BRAC Constitution governing death benefits; 1975 Convention Resolution No. 376 governing disaster relief; and of Article 20 of the BRAC Constitution providing the *Railway Clerk/interchange* without cost to the member.

The information contained in these instructions should be widely disseminated and made known to the membership.

RAILWAY CLERK

DEFENDANTS' TRIAL EXHIBIT CE

BROTHERHOOD OF RAILWAY, AIRLINE AND STEAMSHIP CLERKS, FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYES
AFL-CIO—CLC

C. L. DENNIS, International President

File: 538-1-1

Subject: Ellis & Fails vs. BRAC - Rebatable Expenditures

Circular No. 14-76

February 17, 1976

ALL GRAND LODGE OFFICERS,
STAFF AND EMPLOYES

The rebate policy for political, legislative and charitable expenses adopted by the Executive Council at San Francisco, California on October 6, 1975, required that we develop new accounting procedures to assure that every rebatable expense is properly reported and accounted for.

In Joe Rauh's memo of October 5th he defined the three principal problems of establishing a generous rebate system: (1) defining the kinds of union activities which fall within the "political causes" area, (2) making sure that, once so defined, the union's accounting system for the establishment of a dues-rebate rate includes every level and kind of union expenditure and disbursement, and (3) insuring fair internal union procedure and remedy for the employe who believes the rebate offered him is inadequate.

The new accounting system is designed to enable us to meet effectively these problems and to put into effect the policy in such a manner that we meet our responsibilities, both as to the spirit and letter of that policy. Officers and employes at all levels of the Brotherhood must assume an obligation to keep a strict account of all expenditures and cost of facilities that are attributable to rebatable activities. The attached instructions define the expenditures.

With respect to the year 1975, the policy places an obligation upon us that requires that we review all of your expenditures in order to determine those which are rebatable under the above definition of the policy. We realize that this is a most onerous duty and responsibility, but we

must ask you to search your records and memories in order to reconstruct and report to us the time and expenses that you devoted to rebatable causes in the year 1975. We have requested Comptroller Howard to prepare a list of your expenses for the year 1975 and a Xerox copy of your expense reports. This will insure that each expense period will be analyzed by you. If additional information relative to an expense account is required, please secure it from Brother Howard.

We have designed and forwarded to all System Boards and Lodges forms to be used in supplying the Grand Lodge with information relative to rebatable salaries and expenses. We are enclosing a copy of the instructions forwarded with these forms so that you will be aware of how these matters are being handled on the System Board and Local Lodge levels. It would appear that for the year 1975, the form designed for reporting rebatable salaries and rebatable traveling expenses could be used by us for making your report of these items for the year 1975. In the event that during the year 1975 you had no rebatable salaries or rebatable traveling expenses, it would only be necessary that you write "None" on the form, sign it and return to D. A. Bobo, International Secretary-Treasurer, Attention R. M. Mayberry. Form RP-1 covers Rebatable Salary and RP-2 coveres Rebatable Expenses.

Effective with January 1, 1976, we are putting into effect an administrative control which we expect each of you to observe. Specifically, no officer or employe is permitted to engage in any political activity during working hours or expend any funds unless he is specifically authorized and assigned to such activity. All assignment and authority to incur such expense is vested in the International President, or his designated representative. When such activity is authorized, the International Secretary-Treasurer will be requested to assign a specific accounting code for this activity. You will be instructed to show this on your expense report and the report of such activities in order that there will be a complete accounting of both time spent and expenses authorized.

We have designed new expense account forms and you must follow carefully the instructions contained thereon. (A supply will be provided you within ten (10) days.) These forms provide space wherein you can make daily report for any rebatable time and/or rebatable expenses. Therefore, for the year 1976 your monthly expense accounts will provide us with all the information needed to record any of your rebatable activities. All of these changes are being made in order that we can

effectively account for any and all rebatable expenditures as required under the policy statement.

In respect to any rebatable activities which have occurred in 1976, you should use Forms RP-1 and RP-2 to bring you up-to-date for the year. With the receipt of the above mentioned forms it will, of course, not be necessary that the RP-1 and RP-2 forms be used. Should you need copies of any expense reports filed during 1976, please make inquiry of Comptroller Howard and they will be forwarded.

We adopted a plan that provides a generous standard and which goes farther than the law appears to require, but it was done with the idea that it will avoid undue accounting burdens which arose under the previous policy. It will also reduce the likelihood of unnecessary and burdensome litigation. If each of us keeps these reasons clearly in mind, it will lighten the burden of the task and also help us adequately to defend our position in the event an appeal is made to the Public Review Board.

Sincerely and fraternally,

G. L. Dennis
International President

D. A. Dobbs
International Secretary-Treasurer

INSTRUCTIONS REGARDING DUES REBATE POLICY

The Executive Council at San Francisco, California on October 6, 1975 adopted the "Recommendations Concerning Dues Rebates for Expenditures for Political Causes" outlined in Attorney Rauh's memo of October 5, 1975. The effective implementation now becomes the responsibility of each and every officer and employe of the Grand Lodge and of all subordinate units.

This rebate policy was adopted in recognition of our responsibility as a union to meet the obligation established by the Supreme Court's *Street* decision to "attain the appropriate reconciliation between majority and dissenting interests in the area of political expression." Under the Railway Labor Act unions may not use an objecting employe's dues "to support political causes which he opposes."

This plan provides for a generous rebate system, both to protect the unquestionable rights of political expenditure dissenters and to avoid unnecessary litigation. In establishing such a rebate system, three principal problems immediately arise: 1) defining the kinds of union activities which fall within the "political causes" area, 2) making sure that; once so defined, the union's accounting system for the establishment of a dues rebate rate includes every level and kind of expenditure, and 3) insuring fair internal union procedure and remedy for the employe who believes the rebate offered him is inadequate.

We believe lobbying for legislative improvements in the RRA, RUIA and Con-Rail Legislation, etc., and cooperative legislative activities beneficial to the industries which employ our members are normal and legitimate extensions of the collective bargaining process.

Nevertheless, we deem it best to provide the broadest possible respect for personal choices in the area of politics and ideology, and to avoid unnecessary bookkeeping burdens which narrower differentiation would require. Accordingly, the rebate system shall encompass all expenditures in the area of elections, legislative lobbying, and dues or contributions to other organizations, including labor, charitable, and educational groups. While such a standard goes farther than the law appears to require, in operation it avoids undue accounting burdens which would arise under a narrower standard and also reduces the likelihood of unnecessary and burdensome litigation.

With the assistance of Haskins & Sells we have adopted an accounting and auditing system which must identify all rebatable expenditures made by the Grand Lodge and all subordinate units, as defined below.

Specifically, items to be included in our rebate plan are as follows:

(i) **Contributions to candidates, political parties or organizations:** (State or local candidates only; federal law prohibits any contributions from dues to candidates for federal office)

(a) Direct payments. (Form RP-3)

(b) Time spent by full-time officers and employes *during normal working hours* (8 to 5, Monday thru Friday). (Form RP-1)

(c) Part-time officers and employes need report only salaries paid them for rebatable activities. Monthly salaries of part-time officers should not be included as this salary is to compensate officers for regular duties performed. (Form RP-1)

(d) Reimbursed rebatable expenses, such as travel, meals, gifts, etc. (Form RP-2)

(e) Value of office supplies and facilities used. (Form RP-3)

(f) Prorated proportion of page cost devoted to political causes in *Railway Clerk/interchange* and any other union publication. (Form RP-3)

(ii) **All funds expended on legislative lobbying:**

(a) Direct Payments. (Form RP-3)

(b) Time spent by full-time officers and employes *during normal working hours* (8 to 5, Monday thru Friday). (Form RP-1)

(c) Part-time officers and employes need report only salaries paid them for rebatable activities. Monthly salaries of part-time officers should not be included as this salary is to compensate officers for regular duties performed. (Form RP-1)

(d) Reimbursed rebatable expenses, such as travel, meals, gifts, etc. (Form RP-2)

(e) Value of office supplies and facilities used. (Form RP-3)

(f) Per capita tax allocation to State Legislative Committees. (Form RP-3)

(iii) **All dues to the AFL-CIO, CLC and similar organizations.** (Include City and State Federation) (Form RP-3)

(iv) **Contributions to other organizations:**

(a) All charitable organizations - Examples: Red Cross, United Fund, City of Hope, etc. (Form RP-3)

(b) All education and not-for-profit organizations - Examples: E. Philip Randolph Institute, Coalition of Labor Union Women, National Association for the Advancement of Colored People, Fraternal Order of Police, etc. (Form RP-3)

(c) Time spent and expenses incurred, as in sub-paragraphs (i) and (ii) above.

The above defines the types of expenses and salaries to be classified under the rebate policy. If you have a question regarding a specific expenditure you should contact Brother Mayberry, Grand Lodge Coordinating Director, or Sol Hirsh, General Counsel.

The records of Grand Lodge and all subordinate units will be subject to examination by our Auditing and Bonding Department, as well as by an independent certified or chartered public accountant. These record and audit reports are subject to review by the Grand Lodge Board of Trustees and, in the event of appeal, by the Public Review Board.

DEFENDANTS' TRIAL EXHIBIT CF

BROTHERHOOD OF RAILWAY, AIRLINE AND STEAMSHIP CLERKS, FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYES
AFL-CIO—CLC **C. L. DENNIS International President**

File: 538-1-1

Subject: Ellis & Fails vs. BRAC
Rebatable Expenditures

Circular No. 5-76

January 19, 1976

TO ALL SUBORDINATE UNIT OFFICERS
OF SYSTEM BOARDS AND LOCAL LODGES

Dear Sirs and Brothers:

This letter revises my letter of August 28, 1975, (file 538-1-43) relative to the reporting of rebatable political expenditures. I reported to you the new rebate policy for political, legislative and charitable expenditures adopted by the Executive Council on October 6, 1975, in my letter of November 7, 1975, file 538-1. At the Grand Lodge we have adopted new accounting procedures for our own rebatable expenditures.

The October 6, 1975 Rebate Policy has enlarged the categories of refundable expenditures from the policy of January 24, 1974, so it will be necessary to recalculate the refundable expenditures for 1975 using the new standards. The following procedures have been adopted to assure us that every rebatable expense of all subordinate units is reported to the Grand Lodge Board of Trustees in accordance with Article 28 of the Grand Lodge Constitution. Please read carefully the attached "Instructions Regarding Dues Rebate Policy." You will note the instructions designate the report form upon which to record each rebatable cost.

We have adopted three forms to be filed annually with instructions for the reporting of all expenditures starting with January 1, *1975* (note entire year of 1975):

(1) RP-1, Individual Rebatable Salary Report.

(2) RP-2, Individual Rebatable Expenditure Report.
(Forms RP-1 and 2 for Salary and Expenses are to be completed by individual officers and employes of the System Board, Division or Local Lodge.)

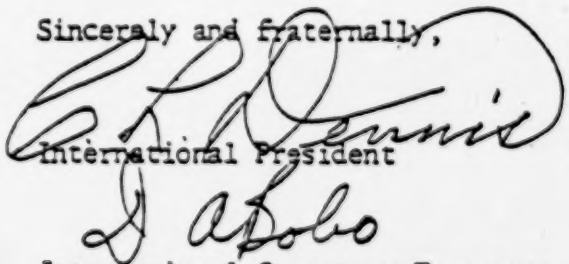
(3) RP-3, Unit Rebatable Expenditures Report.
(This form is to be completed by the financial officer of the System Board, Division or Local Lodge for all rebatable expenditures other than those listed on Forms RP-1 and 2.)

The responsibility for the distribution of Forms RP-1 and 2 to each officer and employe rests with the financial officer of each unit and should be returned to him upon completion. He will then complete Form RP-3 and present to the Board of Trustees all of the completed reports for their examination. The Board of Trustees must audit these records and forward to the International Secretary-Treasurer, attention Richard F. Bohman, General Auditor, on or before February 15, 1976.

These reports will be subject to possible examination by our Field Auditor or by a certified or chartered public accountant.

I recognize that this imposes a great burden on all officers, but these tasks must be accomplished in order to fulfill the commitment to our members under the rebate policy. It is anticipated that once we all become familiar with what is expected of us, the task will become much easier in the coming years.

Sincerely and fraternally,



International President

International Secretary-Treasurer

cc: Grand Lodge Officers
Grand Lodge Auditors

INSTRUCTIONS REGARDING DUES REBATE POLICY

The Executive Council at San Francisco, California on October 6, 1975 adopted the "Recommendations Concerning Dues Rebates for Expenditures for Political Causes" outlined in Attorney Rauh's memo of October 5, 1975. The effective implementation now becomes the responsibility of each and every officer and employe of the Grand Lodge and of all subordinate units.

This rebate policy was adopted in recognition of our responsibility as a union to meet the obligation established by the Supreme Court's *Street* decision to "attain the appropriate reconciliation between majority and dissenting interests in the area of political expression." Under the Railway Labor Act unions may not use an objecting employe's dues "to support political causes which he opposes."

This plan provides for a generous rebate system, both to protect the unquestionable rights of political expenditure dissenters and to avoid unnecessary litigation. In establishing such a rebate system, three principal problems immediately arise: 1) defining the kinds of union activities which fall within the "political causes" area, 2) making sure that; once so defined, the union's accounting system for the establishment of a dues rebate rate includes every level and kind of expenditure, and 3) insuring fair internal union procedure and remedy for the employe who believes the rebate offered him is inadequate.

We believe lobbying for legislative improvements in the RRA, RUIA and Con-Rail Legislation, etc., and cooperative legislative activities beneficial to the industries which employ our members are normal and legitimate extensions of the collective bargaining process.

Nevertheless, we deem it best to provide the broadest possible respect for personal choices in the area of politics and ideology, and to avoid unnecessary bookkeeping burdens which narrower differentiation would require. Accordingly, the rebate system shall encompass all expenditures in the area of elections, legislative lobbying, and dues or contributions to other organizations, including labor, charitable, and educational groups. While such a standard goes farther than the law appears to require, in operation it avoids undue accounting burdens which would arise under a narrower standard and also reduces the likelihood of unnecessary and burdensome litigation.

With the assistance of Haskins & Sells we have adopted an accounting and auditing system which must identify all rebatable expenditures made by the Grand Lodge and all subordinate units, as defined below.

Specifically, items to be included in our rebate plan are as follows:

(i) **Contributions to candidates, political parties or organizations:** (State or local candidates only; federal law prohibits any contributions from dues to candidates for federal office)

(a) Direct payments. (Form RP-3)

(b) Time spent by full-time officers and employes *during normal working hours* (8 to 5, Monday thru Friday). (Form RP-1)

(c) Part-time officers and employes need report only salaries paid them for rebatable activities. Monthly salaries of part-time officers should not be included as this salary is to compensate officers for regular duties performed. (Form RP-1)

(d) Reimbursed rebatable expenses, such as travel, meals, gifts, etc. (Form RP-2)

(e) Value of office supplies and facilities used. (Form RP-3)

(f) Prorated proportion of page cost devoted to political causes in *Railway Clerk/interchange* and any other union publication. (Form RP-3)

(ii) **All funds expended on legislative lobbying:**

(a) Direct Payments. (Form RP-3)

(b) Time spent by full-time officers and employes *during normal working hours* (8 to 5, Monday thru Friday). (Form RP-1)

(c) Part-time officers and employes need report only salaries paid them for rebatable activities. Monthly salaries of part-time officers should not be included as this salary is to compensate officers for regular duties performed. (Form RP-1)

(d) Reimbursed rebatable expenses, such as travel, meals, gifts, etc. (Form RP-2)

(e) Value of office supplies and facilities used. (Form RP-3)

(f) Per capita tax allocation to State Legislative Committees. (Form RP-3)

(iii) **All dues to the AFL-CIO, CLC and similar organizations.** (Include City and State Federation) (Form RP-3)

(iv) **Contributions to other organizations:**

(a) All charitable organizations - Examples: Red Cross, United Fund, City of Hope, etc. (Form RP-3)

(b) All education and not-for-profit organizations - Examples: E. Philip Randolph Institute, Coalition of Labor Union Women, National Association for the Advancement of Colored People, Fraternal Order of Police, etc. (Form RP-3)

(c) Time spent and expenses incurred, as in sub-paragraphs (i) and (ii) above.

The above defines the types of expenses and salaries to be classified under the rebate policy. If you have a question regarding a specific expenditure you should contact Brother Mayberry, Grand Lodge Coordinating Director, or Sol Hirsh, General Counsel.

The records of Grand Lodge and all subordinate units will be subject to examination by our Auditing and Bonding Department, as well as by an independent certified or chartered public accountant. These record and audit reports are subject to review by the Grand Lodge Board of Trustees and, in the event of appeal, by the Public Review Board.

(Letterhead omitted in printing.)

DEFENDANTS' TRIAL EXHIBIT CH

Board of Trustees Report for 1975 . . .

I. Introduction

At its Quadrennial Convention in May 1975, the Grand Lodge amended its Constitution by adopting a new Article 28 providing for a reduction in the dues and agency fees of those who object to the use of a portion of their money for political purposes. The Board of Trustees is charged with the responsibility of reviewing the records of all units of the Brotherhood to determine the receipts of dues and agency fees during the past year, the percentage thereof expended on political purposes, and to calculate therefrom the amount of refund each objecting member and agency fee payer is entitled to receive.

Article 28 essentially incorporates the policy statement of BRAC issued by the International President and approved by the Executive Council on January 24, 1974. On October 6, 1975, the Executive Council adopted certain recommendations further implementing and clarifying the Dues Rebate Program for our dissenting members and agency fee payers. These recommendations were announced in a communication from the International President which was published in the November issue of the *Railway Clerk/interchange* (Pages 26-28), and was mailed to all subordinate units.

Under Article 28, as clarified by the resolution of October 6, 1975, the following expenditures are rebatable:

1. All funds expended, directly or indirectly, on the election of candidates for public office, including contributions to any political party or political organizations; staff time spent during working hours on behalf of any political party, political organization, or candidate for public office; expenditures on behalf of and facilities used for any political party, political organization or candidate for public office; and the prorated portion of the costs of the *Railway Clerk/interchange* and other union publications to cover space devoted to the above.

2. All funds expended, directly or indirectly, on legislative lobbying, including time and expenses of all full or part-time union staff, expenses of unsalaried persons reimbursed by the union, and the per capita tax allocated to the State Legislative Committees.

3. All dues to the AFL-CIO, CLC, and affiliated organizations of either.

4. All contributions to other organizations, including charitable, ideological and educational groups.

5. All expenditures of the Grand Lodge and all subordinate units in connection with the above.

The foregoing categories of expenditures are more inclusive than the rebatable categories under the policy statement of January 24, 1974, in three significant areas:

1. All money from dues and fees allocated by the local lodges to the State Legislative Committees is now classified as rebatable, rather than just that share contributed by the State Legislative Committees to the election of candidates for state and local public office;

2. In addition to the money spent by the State Legislative Committees, all other costs and expenses incurred in lobbying for legislation beneficial to the employes we represent, such as improvements in the Railroad Retirement Act and anti-MAP legislation; and

3. Dues paid by BRAC to the AFL-CIO, CLC, and affiliated labor groups of either.

According to the resolution of October 6, 1975, these additional categories have been included in order to avoid unnecessary bookkeeping burdens which differentiation would require, and in order to reduce the likelihood of unnecessary and burdensome litigation.

As before, however, expenditures financed by the Railway Clerks Political League are not included in this accounting, because RCPL is financed exclusively by voluntary contributions, not dues money or agency fees. Federal law prohibits the use of money obtained from dues and fees in the election campaigns of candidates for federal office so only RCPL money is used in that activity.

II. Summary of Records Reviewed

In order to arrive at an accurate computation of rebatable expenditures for the year 1975, records of the local lodges, system boards and their equivalent, and the Grand Lodge for 1975 were subjected to review. It was unnecessary to review records of the State Legislative Committees because all money allocated to such committees are automatically included as a rebatable expense. Records of the General Chairmen's Associations and District Councils were not reviewed because our knowledge of their operation and our review of their records for previous years have convinced us that those organizations engage in no rebatable activities.

(A) Local Lodges:

A request for certification regarding money and time spent on rebatable activities in 1975 was sent to the Financial Secretary-Treasurer

of each lodge. Such certification was required for these subordinate bodies to facilitate our review. These documents requested specific data as to any expenditures made by the lodge for rebatable activities, and as to any compensated time spent by any officer or employe of the lodge in such activities. Lodges not replying have been reminded of their duty to file this certification. In those instances where certifications were not returned at the time of our review, the audit reports of such units were examined to determine whether expenditures were made for rebatable purposes. No time charges were made against the non-reporting lodges because our experience with the reporting lodges shows that none have incurred rebatable time charges of any significance.

A review process similar to that undertaken with respect to the local lodges was done to determine system board expenditures for rebatable purposes in 1975. The certifications furnished by system boards were checked against audits filed with the International Secretary-Treasurer.

(B) Grand Lodge:

Within the Grand Lodge, the Board of Trustees reviewed the certificates of every officer and member of the staff regarding the amount of time and expense, if any, spent on rebatable activities. Based on these reports, a calculation was made of the expenses, salaries and fringe benefits of those officers, staff and employes who spent a portion of their time on rebatable activities, and of the actual cost of space, equipment and supplies used for such activities. With the aid of the International Secretary-Treasurer's office, we reviewed the expenditures reported in the Haskins & Sells Grand Lodge audit which, in our opinion, might have been of a rebatable nature. Those items determined to be rebatable have been included in our computation. They consist primarily of labor affiliation dues, charitable contributions, legal, publication and office expenses.

With regard to the Grand Lodge's Washington Office, the Board of Trustees determined to allocate all the salaries and expenses of BRAC's three legislative representatives to the "rebatable" category for 1975. This was done even though a significant portion of their time was spent on non-rebatable activities. The Board made this determination because the documentation necessary to make an accurate allocation of the legislative representatives' non-rebatable time and expenses for the past year were not complete. The records which the Grand Lodge officers and staff now keep, however, should permit an accurate allocation in the ensuing years.

(C) **Receipts:**

Our figures showing annual receipts from dues and fees were gathered with the assistance of the staff of the International Secretary-Treasurer. The gross income of local lodges, system boards of adjustment and the Grand Lodge were reviewed based upon their audit reports to arrive at a total which wuld accurately reflect income from dues and fees for the year 1975.

III. Summary

Appearing on Page 29 is a table showing the expenditures by various units of BRAC for rebatable purposes for the year 1975. We believe that the various categories are self-explanatory. When all of the rebatable expenditures in each of the categories for the year 1975 are added together, the total is $1,088,431.14. We have divided that figure by the receipts of dues and fees for 1975, in the amount of $23,264,402.77, to yield the proportion of dues and fees spent for rebatable purposes, which is 4.68%. The minimum standard monthly dues was $11.00 for the period January 1 thru July 31, 1975, and $13.50 on and after August 1, 1975; the weighted average monthly dues for 1975 was, therefore, $12.04. Accordingly, the monthly reduction of dues for objecting members and agency fee paying members is $0.56.

It should be noted that in our previous reports, the receipts and expenditures were averaged out over a running 3-year period. This practice was not followed for 1975 because the expansion of the rebatable categories, announced in the resolution of October 6, 1975, made it impossible to compare the 1975 calculations with the preceding years. The constitutional requirements of making calculations on a 3-year average will be implemented beginning with the year 1975 on the basis of the enlarged categories.

The resolution of October 6, 1975 also calls for a retroactive refund for those members and agency fee payers who filed timely objections during the years of 1972, 1973 and 1974. The refund in those years was calculated to amount to $0.07 per month. On the basis of the calculations for 1975, the difference between the amount refunded and the amount calculated for 1975 is $0.49. This amount will be refunded to all eligible objectors for the appropriate number of months for the period 1972-74.

Signed on April 30, 1976.

/s/ Otis J. Hawthorne
Acting Chairman

/s/ Jack R. Reese
Secretary

/s/ Thomas C. Robinson
Member
/s/ Grady F. Jackson
Member
/s/ W. S. Neas
Member

Reminder—Under Article 28 of the Grand Lodge Constitution, objections to expenditures should be filed within the first 30 days of membership or during the first 30 days of each calendar year. Moreover, objections must be renewed during the first 30 days of each calendar year.

Expenditures by the various units of BRAC for rebatable purposes

	Local Lodges	System Board	Grand Lodge	Total
1. Contributions and expenses in connection with candidates for public office and political parties[1]	$ —	$ —	$ 9,356.88	$ 9,356.88
2. Legislative lobbying:				
(a) Per capita tax payments to State Legislative Committees	441,196.66	34,480.43	—	475,677.09
(b) Other legislative lobbying expenses (except Grand Lodge Washington Office)	—	—	235,816.09	235,816.09
3. Dues and expenses in connection with AFL-CIO, CLC, and affiliated organizations of either	13,481.12	1,824.70	256,599.58	271,905.40
4. Contributions and expenses in connection with charitable, ideological and educational groups	11,899.16	2,391.86	58,071.37	72,362.39
Totals	$480,418.17	$40,597.72	$567,415.25	$1,088,431.14

Total dues, initiation and reinstatement fees received by the various BRAC units

Grand Lodge				$ 9,193,084.05
System Board				8,548,038.36
System Divisions				283,916.00
Local Lodges:	United States	—	$4,818,991.30	
	Canada	—	420,373.06	5,239,364.36
	Total			$23,264,402.77

[1]Not including expenses of Grand Lodge Washington Office, which is reported in Item 2(c).
[2]Includes expenses in connection with both candidates for public office and political parties, and legislative lobbying.

DEFENDANTS' TRIAL EXHIBIT C1

Report of the Board of Trustees for 1976 Pursuant . . .

I. INTRODUCTION

At its Quadrennial Convention in May 1975, the Grand Lodge amended its Constitution by adopting a new Article 28 providing for a reduction in the dues and agency fees of those who object to the use of a portion of their money for political purposes. The Board of Trustees is charged with the responsibility of reviewing the records of all units of the Brotherhood to determine the receipts of dues and agency fees during the past year, the percentage thereof expended on political purposes, and to calculate therefrom the amount of refund each objecting member and agency fee payer is entitled to receive.

Article 28 essentially incorporates the policy statement of BRAC issued by the International President and approved by the Executive Council on January 24, 1974. On October 6, 1975, the Executive Council adopted certain recommendations further implementing and clarifying the Dues Rebate Program for our dissenting members and agency fee payers. These recommendations were announced in a communication from the International President which was published in the November issue of the *Railway Clerk/interchange* (Pages 26-28), and was mailed to all subordinate units.

Under Article 28, as clarified by the resolution of October 6, 1975, the following expenditures are rebatable:

1. All funds expended, directly or indirectly, on the election of candidates for public office, including contributions to any political party or political organizations; staff time spent during working hours on behalf of any political party, political organization, or candidate for public office; expenditures on behalf of and facilities used for any political party, political organization or candidate for public office; and the prorated portion of the costs of the *Railway Clerk/interchange* and other union publications to cover space devoted to the above.

2. All funds expended, directly or indirectly, on legislative lobbying, including time and expenses of all full or part-time union staff, expenses of unsalaried persons reimbursed by the union, and the per capita tax allocated to the State Legislative Committees.

3. All dues to the AFL-CIO, CLC, and affiliated organizations of either.

4. All contributions to other organizations, including charitable, ideological and educational groups.

5. All expenditures of the Grand Lodge and all subordinate units in connection with the above.

The foregoing categories of expenditures are more inclusive than the rebatable categories under the policy statement of January 24, 1974, in three significant areas.

1. All money from dues and fees allocated by the local lodges to the State Legislative Committees is now classified as rebatable, rather than just that share contributed by the State Legislative Committees to the election of candidates for state and local public office;

2. In addition to the money spent by the State Legislative Committees, all other costs and expenses incurred in lobbying for legislation beneficial to the employes we represent, such as improvements in the Railroad Retirement Act and anti-MAP legislation; and

3. Dues paid by BRAC to the AFL-CIO, CLC, and affiliated labor groups of either.

According to the resolution of October 6, 1975, these additional categories have been included in order to avoid unnecessary bookkeeping burdens which differentiation would require, and in order to reduce the likelihood of unnecessary and burdensome litigation.

As before, however, expenditures financed by the Railway Clerks Political League are not included in this accounting, because RCPL is financed exclusively by voluntary contributions, not dues money or agency fees. Federal law prohibits the use of money obtained from dues and fees in the election campaigns of candidates for federal office so only RCPL money is used in that activity.

II. SUMMARY OF RECORDS REVIEWED

In order to arrive at an accurate computation of rebatable expenditures for the year 1976, records of the local lodges, system boards and their equivalent, and the Grand Lodge for 1976 were subjected to review. While it was unnecessary to review records of the State Legislative Committees because all money allocated to such committees are automatically included as a rebatable expense, these records were examined. Records of the General Chairmen's Associations and District Councils were examined even though our knowledge of their operation and our review of their records for previous years have convinced us that those organizations engage in no rebatable activities.

(A) Local Lodges:

A request for certification regarding money and time spent on rebatable activities in 1976 was sent to the Financial Secretary-Treasurer of each lodge. Such certification was required for these subordinate bodies to facilitate our review. These documents requested specific data as to any expenditures made by the lodge for rebatable activities, and as to any compensated time spent by any officer or employe of the lodge in such activities. Lodges not replying have been reminded of their duty to file this certification. In those instances where certifications were not returned at the time of our review, the audit reports of such units were examined to determine whether expenditures were made for rebatable purposes. No time charges were made against the non-reporting lodges because our experience with the reporting lodges shows that none have incurred rebatable time charges of any significance.

A review process similar to that undertaken with respect to the local lodges was done to determine system board expenditures for rebatable purposes in 1976. The certifications furnished by system boards were checked against audits and run-off sheets filed with the International Secretary-Treasurer.

(B) Grand Lodge:

Within the Grand Lodge, the Board of Trustees reviewed the expense accounts and certificates of every officer and member of the staff regarding the amount of time and expense, if any, spent on rebatable activities. Based on these reports, a calculation was made of the expenses, salaries and fringe benefits of those officers, staff and employes who spent a portion of their time on rebatable

activities, and of the actual cost of space, equipment and supplies used for such activities. We also reviewed all other expenditures made during the past year. Those items determined to be rebatable have been included in our computation. They consist primarily of labor affiliation dues, charitable contributions, legal, publication and office expenses.

With regard to the Grand Lodge's Washington Office, the Board of Trustees, in accordance with past practice, determined to allocate all the salaries and expenses of BRAC's three legislative representatives to the "rebatable" category for 1976.

(C) Receipts:

Our figures showing annual receipts from dues and fees were gathered with the assistance of the staff of the International Secretary-Treasurer. The gross income of local lodges, system boards of adjustment and the Grand Lodge were reviewed based upon their audit reports to arrive at a total which would accurately reflect income from dues and fees for the year 1976.

III. SUMMARY

Reproduced is a table showing the expenditures by various units of BRAC for rebatable purposes for the year 1976. We believe that the various categories are self-explanatory. When all of the rebatable expenditures in each of the categories for the year 1976 are added together, the total is $1,249,259.97.

Total dues, initiation and reinstatement fees received by the various BRAC units during 1976 was $24,509,683.46. Corresponding figures for 1975 were receipts of $23,264,402.77 and rebatable expenses of $1,088,431.14. Adding these figures together we arrive at average receipts and expenditures for the years of 1975 and 1976 as follows:

Receipts	$23,887,043.12
Rebatable Expenditures	1,168,845.56

We have divided the average rebatable expenditures by the average receipts to yield the percentage of dues and fees spent for rebatable purposes and determined the percentage to be 4.9%.

The amount of rebate to individuals requesting same is the percentage as determined above times the amount an individual paid as full dues in 1976.

The constitutional requirement of making calculations on a 3-year average will be fully implemented beginning with the year 1977 on the basis of the enlarged categories.

As noted above, for the year 1976 we have used the average of 1975 and 1976.

Signed on April 22, 1977

/s/ Thomas C. Robinson
Acting Chairman

/s/ Jack R. Reese
Acting Secretary

/s/ W. S. Neas
Member

/s/ P. J. Meier
Member

Expenditures by the Various Units of BRAC for Rebatable Purposes

	Local Lodges	System Boards	Grand Lodge	1976 Total	1975 Total
1. Contributions and expenses in connection with candidates for public office and political parties[1]	$ —	$ —	$ 40,477.90	$ 40,477.90	$ 9,356.88
2. Legislative lobbying:					
(a) Per capita tax payments to State Legislative Committee	434,062.55			434,062.55	475,677.09
(b) Other legislative lobbying expenses (except Grand Lodge Washington Office)	28,145.34	2,281.09	50,963.66	81,390.09	23,313.29
(c) Grand Lodge Washington Office[2]			295,522.83	295,522.83	235,816.09
3. Dues and expenses in connection with AFL-CIO, CLC, and affiliated organizations of either	13,076.82	2,202.00	324,048.99	339,327.81	271,905.40
4. Contributions and expenses in connection with charitable, ideological and educational groups	14,047.44	2,184.00	42,247.35	58,478.79	72,362.39
TOTALS	$489,332.15	$6,667.09	$753,260.73	$1,249,259.97	$1,088,431.14

Total Dues, Initiation and Reinstatement Fees Received by the Various Units of BRAC

Grand Lodge	$ 9,500,089.88	$ 9,19?,084.05
System Boards	9,350,498.34	8,548,038.36
Local Lodges & System Divisions	5,659,095.24	5,523,280.36
TOTALS	$24,509,683.46	$23,264,402.77

[1]Not including expenses of Grand Lodge Washington Office, which is reported in Item 2(c).

[2]Includes expenses in connection with both candidates for public office and political parties, and legislative lobbying.

DEFENDANTS' TRIAL EXHIBIT CJ

BROTHERHOOD OF RAILWAY, AIRLINE AND STEAMSHIP CLERKS, FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYES
AFL-CIO — CLC ***D. A. BOBO, International Secretary-Treasurer***

File: 538-1-25

Subject: Rebate for Political and Other Expenditures

May 16, 1977

Susan Allen
3967 Sacramento #5
San Francisco, California 94118

Greetings:

According to our records in the cases of *Ellis v. BRAC* and *Fails v. BRAC*, you submitted an objection to the expenditure of dues or agency fees for political and other purposes.

The report of the Board of Trustees for the year 1976, which will be printed in the May-June issue of the *Railway Clerk/interchange*, determined the percentage of rebatable expenses and salaries to be 4.9%. Applying this percentage to your fifteen dollar dues rate for 1976 yields a refund of seventy-three cents due you for each month in which full dues were remitted during 1976. Records furnished by your lodge show that during 1976 you paid dues or agency fees for 12 months. Consequently, the amount of refund due you for 1976 is $8.76.

The refund sent to you last year for the period covering July 1972 - December 1975 was computed on the basis of the minimum dues charged by the Union during that period. However, your dues rate was increased to fifteen dollars effective June 1975, but due to inadvertence, that increase was not taken into consideration when your refund was calculated. We are now correcting that error. According to our records, between July 1, 1972 and December 31, 1975 you paid dues or agency fees totaling $90.00. By recomputing your actual dues for that period and recalculating the percentage at 4.9% it has been determined that the additional amount of $1.10 is due you for the period July 1, 1972 through December 31, 1975 under the rebate policy. This additional amount was

arrived at by recalculating the total dues paid for the period July 1, 1972 through December 31, 1975 at 4.9% and subtracting therefrom the rebate you received last year.

Consequently, the total refund due you is $9.86. A check for that amount is enclosed.

Under the dues rebate program, you have the right to appeal to the Public Review Board the amount of your refund. Cashing of the enclosed check will not be deemed a waiver of your right to appeal.

Sincerely and fraternally,

D A Bolo

International Secretary Treasurer

Enclosure

cc: Mr. Fred J. Kroll, IP

DEFENDANTS' TRIAL EXHIBIT CS

REBATABLE SALARIES AND EXPENSES
YEAR 1977

Name	Salary	Expenses	Total
Archual, A.	$	$ 1,312.38	$ 1,312.38
Bernard, D.	181.74		181.74
Bishop, S.	435.12	898.75	1,333.87
Bobo, D.	258.20	560.00	818.20
Borrelli, J.	83.52		83.52
Campbell, J.	210.15	609.82	819.97
Carter, C.	483.60	340.97	824.57
Coleman, C.	300.04	162.19	462.23
Condo, L.	1,186.92		1,186.92
Crispell, R.	8.47		8.47
Curry, D.	235.69	264.01	499.70
Devlin, R.	219.26	72.45	291.71
Donlon, W.	92.32	227.50	319.82
Dyck, T.	17.82	14.50	32.32
Dysart, W.	186.80		186.80
Farrell, M.	268.54		268.54
Fitzgibbon, T.	265.42	630.28	895.70
Gonzalez, T.	115.93		115.93
Granlund, W.	300.04	151.70	451.74
Hannah, B.	25.12		25.12
Hensley, S.	1,500.07		1,500.07
Hidey, B.	2,703.95	433.31	3,137.26
Hirsh, S.	34.62		34.62
Ippolito, F.	4.14		4.14
Janczewski, P.	351.70		351.70
Jordan, G.	63.53		63.53
Kilroy, R.	207.72	650.78	858.50
Kravetz, C.	120.43		120.43
Kroll, F.	788.43	1,552.51	2,340.94
Lockhart, D.	900.12	940.85	1,840.97
Long, R.		32.90	32.90

Name	Salary	Expenses	Total
Lynch, F.	$ 230.80	$ 782.84	$ 1,013.64
McCauley, A.	21.12	226.46	247.58
McGraw, P.	140.40		140.40
Meier, P.	25.74	135.18	160.92
Neal, E.	230.80	147.47	378.27
Neas, W.	23.76	170.48	194.24
Newberry, S.	1,574.13		1,574.13
Norton, R.	815.85	1,193.67	2,009.52
Otero, J.	2,977.32	3,454.82	6,432.14
Reese, J.	21.78	99.44	121.22
Reynolds, E.	30.03	127.12	157.15
Robinson, C.	856.64	192.02	1,048.66
Robinson, T.	34.32	552.64	586.96
Simpson, P.	95.53		95.53
Snow, S.	231.00		231.00
Spieker, P.	126.68	98.85	225.53
Stewart, P.	203.31		203.31
Swain, W.	21.78	69.96	91.74
Thias, E.	181.30	106.50	287.80
Toppen, G.	230.80	340.71	571.51
Vasturia, P.	395.55	146.92	542.47
Williamson, W.	235.69	152.35	388.04
Wilson, E.	118.71	16.80	135.51
TOTAL	$20,372.45	$16,869.13	$37,241.58

DEFENDANTS' TRIAL EXHIBIT CV

Rebatable Expenses

1977

Salary and Expenses (Exclusive of Legislative Fund)	$ 37,241.58
Fringe Benefits on Salaries (37,241.58 @ 35%)	13,034.55
General Fund	
580-581	
Rent on Office Equipment	820.37
580-585	
Express	64.92
580-586	
Printing and Office Supplies	1,673.50
610-613	
Consultants	12,456.79
620-621	
AFL-CIO	166,338.74
620-622	
Canadian Per Capita	41,724.60
620-625	
Maritime Trades	3,060.00
620-626	
International Trade Federation	29,970.00
620-627	
Railway Labor Executives Association	85,843.00
620-628	
Professional Employes AFL-CIO	930.00
630-636	
Scholarship	3,525.00
660-661	
Contribution	15,361.19
660-661	
Contribution - Political	8,435.20
660-668	
Banquets and Luncheons	9,015.08

General Fund (Continued)	
660-674	
Foreign Travel	$ 3,289.26
Protective Fund	
610-611	
Legal Fees	55,732.11
620-626	
Canadian Railroad Labour Association	13,800.00
Publication Fund	
600-601	
Printing	9,558.73
610-614	
Bulletin	903.11
Legislative Fund	240,308.68
	$753,086.41

REBATEABLE LEGAL 1976

VOUCHER	PAYEE	AMOUNT
7086	RLEA	$ 2,001.17
7364	Highsaw	95.97
7699	Wayne Hartke	500.00
7701	RLEA	2,371.30
7762	Wayne Hartke	500.00
5609C	Soloway Wright	225.00
8585	RLEA	1,233.12
8642	Highsaw	529.21
8643	Wayne Hartke	500.00
9179	Wayne Hartke	500.00
9182	RLEA	688.79
9508	Highsaw	739.82
9720	RLEA	3,149.41
9726	Highsaw	356.26
9970	RLEA	953.26
10024	Wayne Hartke	500.00
10341	Highsaw	454.00
10724	Wayne Hartke	500.00
11247	Wayne Hartke	500.00
11283	RLEA	2,210.32
11284	RLEA	803.94
11308	Highsaw	409.26
11393	RLEA	4,618.41
11670	Wayne Hartke	500.00
12011	RLEA	2,871.02
12301	Wayne Hartke	500.00
12303	Highsaw	561.65
12610	RLEA	2,911.69
12677	Highsaw	148.90
13095	RLEA	4,649.85
13096	RLEA	362.50
13097	Bodle, Fogel, Julber	481.25
13422	Wayne Hartke	500.00
13583	RLEA	1,217.17
13613	Wayne Hartke	1,000.00
		$40,043.27

REBATEABLE LEGAL 1977

VOUCHER	PAYEE	AMOUNT
14299	RLEA	$ 1,784.17
14496	Zil Lipsen	2,837.16
14574	Highsaw	515.02
15049	Highsaw	1,140.12
15558	Highsaw	379.10
15939	RLEA	2,628.23
15993	Highsaw	1,822.19
14649	RLEA	2,085.37
17099	Highsaw	169.94
17656	Highsaw	253.96
18339	Highsaw	213.00
18340	Highsaw	83.11
19849	Highsaw	415.05
20425	Highsaw	1,359.42
136C	Receiver-General Canada	3.00
		$15,688.84